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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/806,840	07/25/2001	Robin Arthur Ellis Carr	PU3565USW	7700

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DAVID J LEVY, CORPORATE INTELLECTUAL PROPERTY  
GLAXOSMITHKLINE  
FIVE MOORE DR., PO BOX 13398  
RESEARCH TRIANGLE PARK, NC 27709-3398

EXAMINER

BAKER, MAURIE GARCIA

ART UNIT	PAPER NUMBER
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1639

DATE MAILED: 05/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.



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SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
09/806,840	07/25/01	CARR	PG3565USw

EXAMINER	
Maurie Garcia Baker, Ph.D.	
ART UNIT	PAPER NUMBER
1639	12

DATE MAILED:

**Please find below a communication from the EXAMINER in charge of this application**

Commissioner of Patents

Please see attached Notice of Non-Responsive Amendment.

## DETAILED ACTION

### *Notice of Non-Responsive Amendment*

1. The reply filed on March 14, 2003 (Paper No. 11) is not fully responsive to the prior Office action because of the following omission(s) or matter(s):

Applicant's election of species is not responsive. It is also confusing and thus it is unclear where the examiner should start the search. This is elaborated upon below.

As stated in paragraph 10 of the Restriction Requirement, if applicant elected the invention of either of Groups I or II, applicant was required to elect from the patentably distinct species of type of "chemical construct". Applicant was required to elect, for purposes of search, a single, specific structure of the claimed "chemical construct". This structure should have all variables defined down to the level of atoms and bonds, i.e. be completely defined as a single structure. The claims readable on the elected species should also be indicated.

Applicant has elected the invention of Group I. Applicant also elected the species of "chemical construct" to be that of Example 1. Applicant states that claims 1-13 and 17-23 are readable on the elected species.

However, it is simply unclear how claims 1-13 and 17-23 read on the species of "chemical construct" in Example 1. First, it is unclear what exactly corresponds to each of the parts of the claimed chemical construct. That is, what structure corresponds to each of Y, R, Fr, G, L<sup>1</sup>, L<sup>2</sup>, and A? This is especially

true because the compound in Example 1 has different portions that might correspond to these entities and the instant claims (e.g. claims 5-13, 17-20) require specific structure and/or function. Second, it does not appear that some of the claims indicated by applicant to read on the elected species actually do read on the species of chemical construct in Example 1. For example, what corresponds to the “sensitising group G” that is “ionisable to form a positive ion” of instant claims 10 and 11? Third, it is unclear what each of the “selectively cleavable” sites are. Without this information, it is impossible to determine which type of chemistry denoted in instant claims 21-23 reads on the elected species and thus where to begin a search.

Thus, to avoid confusion and to aid in the examination of the case on the merits, a fully responsive election is required where the relationship between the terms of the claims and the elected species is clear.


2. See 37 CFR 1.111. Since the above-mentioned reply appears to be *bona fide*, applicant is given ONE (1) MONTH or THIRTY (30) DAYS from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Maurie Garcia Baker, Ph.D. whose telephone number is

(703) 308-0065. The examiner is on an increased flextime schedule but can normally be reached on Monday-Thursday and alternate Fridays from 9:30 to 7:00.

4. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew J. Wang, can be reached at (703) 306-3217. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-4242. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.

Maurie Garcia Baker, Ph.D.  
May 21, 2003

  
**MAURIE GARCIA BAKER PH.D.**  
**PRIMARY EXAMINER**